

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Ho	Team: Squad #3	CCRB Case #: 201508978	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/20/2015 7:05 PM	Location of Incident: § 87(2)(b)	Precinct: 60	18 Mo. SOL 4/20/2017	EO SOL 4/20/2017	
Date/Time CV Reported Tue, 10/20/2015 7:45 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 10/20/2015 7:45 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Eddie Martins	05731	942139	NARCBBS
2. DT3 Essence Jackson	02268	938703	NARCBBS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Essence Jackson	Abuse: Det. Essence Jackson stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
B.POM Eddie Martins	Abuse: PO Eddie Martins stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
C.DT3 Essence Jackson	Abuse: Det. Essence Jackson stopped § 87(2)(b)	§ 87(2)(b)
D.POM Eddie Martins	Abuse: PO Eddie Martins stopped § 87(2)(b)	§ 87(2)(b)
E.DT3 Essence Jackson	Abuse: Det. Essence Jackson stopped § 87(2)(b)	§ 87(2)(b)
F.POM Eddie Martins	Abuse: PO Eddie Martins stopped § 87(2)(b)	§ 87(2)(b)
G.POM Eddie Martins	Abuse: PO Eddie Martins frisked § 87(2)(b)	§ 87(2)(b)
H.POM Eddie Martins	Abuse: PO Eddie Martins searched § 87(2)(b)	§ 87(2)(b)
I.POM Eddie Martins	Abuse: PO Eddie Martins frisked § 87(2)(b)	§ 87(2)(b)
J.POM Eddie Martins	Abuse: PO Eddie Martins searched § 87(2)(b)	§ 87(2)(b)
K.POM Eddie Martins	Discourtesy: PO Eddie Martins spoke discourteously to § 87(2)(b)	§ 87(2)(b)
L.POM Eddie Martins	Abuse: PO Eddie Martins threatened to arrest § 87(2)(b)	§ 87(2)(b)
M.POM Eddie Martins	Abuse: PO Eddie Martins threatened to issue summonses to § 87(2)(b)	§ 87(2)(b)
N.DT3 Essence Jackson	Abuse: Det. Essence Jackson interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
O.DT3 Essence Jackson	Abuse: Det. Essence Jackson searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
P.DT3 Essence Jackson	Abuse: Det. Essence Jackson frisked § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 20, 2015, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On October 20, 2015 at 7:05 p.m., in front of § 87(2)(b)'s residential building located at § 87(2)(b) § 87(2)(b) t in Brooklyn, § 87(2)(b) and his friend § 87(2)(b) were speaking with § 87(2)(b)'s cousin, § 87(2)(b) who was double parked on the street. § 87(2)(b) was there to pick up his jacket from § 87(2)(b) § 87(2)(b)'s girlfriend § 87(2)(b) sat in the passenger seat. Then, Det. Essence Jackson and PO Eddie Martins of Narcotics Borough Brooklyn South pulled up in front of § 87(2)(b)'s vehicle in an unmarked black Toyota Camry with license plate no. § 87(2)(e) (**Allegations A, B, C, D, E, and F**). PO Martins asked § 87(2)(b) and § 87(2)(b) for their identification, which they provided. § 87(2)(b) was then frisked and searched by PO Martins (**Allegations G and H**). PO Martins went into his pockets to remove a packet of gum and his wallet, and gave them to him to hold. § 87(2)(b) was frisked and searched next by PO Martins and nothing was recovered (**Allegations I and J**). § 87(2)(b) told PO Martins he could not legally search them, and was told, "Shut the fuck up or I'll slap the handcuffs on you" (**Allegations K and L**). § 87(2)(b) told PO Martins he could not search them and was told he would be thrown summonses if he did not shut up (**Allegation M**). At this time, § 87(2)(b)'s friend and neighbor § 87(2)(b) approached them and began to video record the incident on his phone. When Det. Jackson observed § 87(2)(b) recording from his phone as well, Det. Jackson reached into the vehicle in an attempt to snatch his phone away (**Allegations N and O**); § 87(2)(b) kept his phone away from Det. Jackson. Next, Det. Jackson and PO Martins asked § 87(2)(b) to exit his vehicle, and instructed him to stand facing his trunk. Det. Jackson is observed on video leaning into the vehicle through the driver's side door, shining his flashlight on the interior of the vehicle (**Allegation O** continued). Then, Det. Jackson frisked and searched § 87(2)(b) (**Allegations P and Q**). After, Det. Jackson brought § 87(2)(b) across the street to offer an apology. Det. Jackson and PO Martins returned to their vehicle and immediately drove away. There were no arrests or summonses issued; § 87(4-b), § 87(2)(g)

Video Evidence

There is footage of the incident recorded by surveillance cameras on the exterior of 31-11 Brighton 7th Street. In addition, § 87(2)(b) provided footage recorded on his smartphone to the investigation.



Snagit 1 - Camera 8.mp4
IA 33, BR 03



Snagit 1 - Camera 6.mp4
IA 34, BR 04



Snagit 2 - Cellphone.mp4
IA 49, BR 07

Mediation, Civil and Criminal Conviction Histories

- Mediation was offered to and rejected by § 87(2)(b)
- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of January 19, 2016 with regard to the incident.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b)
- § 87(2)(b) and § 87(2)(b) have never filed complaints with the CCRB.
- Det. Essence Jackson has been a member of the service for 10 years and there are no substantiated CCRB allegations against him.
 - Of the 40 CCRB allegations against Det. Jackson, 1 is a vehicle search, 2 are frisks, 3 are searches, 2 are stops, and 1 is a discourteous action.
 - § 87(2)(b)
- In case 201507774, premise entered and/or search and two allegations of failure to show the search warrant are alleged against Det. Jackson. The case is pending review by Panel 1C-2016.
- In case 201508189, physical force is alleged against Det. Jackson. The investigation remains open with Squad 14.
- PO Eddie Martins has been a member of the service for 9 years and there are no substantiated CCRB allegations against him.

Potential Issues

- On November 27, 2015, § 87(2)(b) withdrew from the complaint without providing a statement to the investigation
- Five calls were placed to § 87(2)(b)'s phone number; and two letters were successfully sent to § 87(2)(b)'s email address. Two letters were mailed to § 87(2)(b) and as of January 21, 2016, they have not been returned by the USPS. § 87(2)(b) was asked twice to have § 87(2)(b) contact the undersigned. To date, § 87(2)(b) has not responded. Consequently, the investigation does not have a verified statement from § 87(2)(b)
- The investigation was unable to reach § 87(2)(b) as § 87(2)(b) did not have a contact number for her and the undersigned was unable to request the information from § 87(2)(b) § 87(2)(b). Consequently, the investigation does not have a statement from her.

Finding and Recommendations

Recommendations

- **Allegation A – Abuse of Authority: Det. Essence Jackson stopped the vehicle in which § 87(2)(b) was an occupant.**
- **Allegation B – Abuse of Authority: PO Eddie Martins stopped the vehicle in which § 87(2)(b) was an occupant.**

Civilian and officer testimonies, supported by video evidence confirm § 87(2)(b) was double-parked in front of 31-11 Brighton 7th Street in Brooklyn when officers stopped him § 87(2)(b) § 87(2)(b) – BR 01; § 87(2)(b) – BR 06; PO Martins – BR 08; Det. Jackson – BR 09; Camera 08 – BR03; Camera 06 – BR 04; Cellphone – BR 07].

Det. Jackson was in his vehicle when he observed a vehicle drive by at a high rate of speed which he assumed to be over thirty-five miles per hour. Det. Jackson could not estimate how fast the vehicle was travelling at and is not trained in speed estimation. Det. Jackson followed the vehicle for two minutes and observed it make a left turn onto § 87(2)(b) § 87(2)(b). When the vehicle double parked in front of § 87(2)(b) § 87(2)(b), Det. Jackson parked “a little ways off” from the vehicle on the same side of the street. A minute later, when Det. Jackson believed he observed a narcotics transaction occur, Det. Jackson and PO Martin went to conduct a stop of the

vehicle. Det. Jackson informed the driver § 87(2)(b) that he was being stopped for speeding and double parking.

It is a traffic law violation to stop, stand, or park a vehicle on the roadway side of any vehicle stopped, standing, or parked at the edge or curb of a street. VTL §1202(a)1a [BR 19]. Police may reasonably initiate a traffic stop based on probable cause a traffic infraction has occurred, regardless of the officer's underlying motivation or desire to conduct another investigation. People v. Weishaupt, 2014 NY Slip Op 4259 [BR 25].

§ 87(2)(g)

[REDACTED]

- **Allegation C – Abuse of Authority: Det. Essence Jackson stopped** § 87(2)(b)
- **Allegation D – Abuse of Authority: PO Eddie Martins stopped** § 87(2)(b)
- **Allegation E – Abuse of Authority: Det. Essence Jackson stopped** § 87(2)(b)
- **Allegation F – Abuse of Authority: PO Eddie Martins stopped** § 87(2)(b)

Civilian and officer testimonies, supported by video evidence confirm § 87(2)(b) and § 87(2)(b) who were standing on the sidewalk, were stopped in conjunction with the traffic stop § 87(2)(b) – BR 01; § 87(2)(b) – BR 06; PO Martins – BR 08; Det. Jackson – BR 09; Camera 08 – BR03; Camera 06 – BR 04; Cellphone – BR 07].

When Det. Jackson and PO Martins were observing § 87(2)(b)'s vehicle double parked in front of § 87(2)(b) § 87(2)(b), Det. Jackson observed two males approach the passenger's side of the vehicle and lean into the front passenger's window for approximately ten seconds. When Det. Jackson observed their hands "in and out" of the car, he assumed narcotics transaction had occurred (and explained that this was in a drug-prone location). However, Det. Jackson explained that because it was dark out, he did not actually observe anything being passed between the individuals in the car with the two males standing on the street. After one minute of observation, Det. Jackson and PO Martin went to conduct a stop of the vehicle and the two males standing on the street.

PO Martins did not recall the reason for conducting the vehicle stop, or for stopping § 87(2)(b) § 87(2)(b) and § 87(2)(b) who were standing on the street [BR 08].

People v. Debour, 40 N.Y.2d 210 (1976) held that officers can forcibly stop and detain an individual whenever they have a reasonable suspicion that the individual has committed, is committing, or is about to commit a crime [BR 17]. Despite presence at a drug-prone location and the officers' training in narcotics, if the officer cannot see what is passed between the individuals supposedly making an exchange, do not see an exchange of currency, and cannot describe any other furtive conduct, they do not have reasonable suspicion to stop the individuals in question, and instead only possess a founded suspicion that criminal activity is afoot. People v. Loper, 2014 N.Y. App. Div. LEXIS 1735 (2014) [BR 18].

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

- **Allegation G – Abuse of Authority: PO Eddie Martins frisked** § 87(2)(b)
- **Allegation H – Abuse of Authority: PO Eddie Martins searched** § 87(2)(b)
- **Allegation I – Abuse of Authority: PO Eddie Martins frisked** § 87(2)(b)
- **Allegation J – Abuse of Authority: PO Eddie Martins searched** § 87(2)(b)

§ 87(2)(b) alleged that after PO Martins asked him and § 87(2)(b) to provide their identification, PO Martins had § 87(2)(b) put his arms up in the air and began to pat his body from the chest down [BR 01]. PO Martins removed § 87(2)(b)'s wallet and a packet of gum from his pockets, which he gave back to him to hold. Then, PO Martins instructed § 87(2)(b) to place his hands on the hood of § 87(2)(b)'s vehicle. PO Martins patted down § 87(2)(b)'s clothes and searched § 87(2)(b)'s pockets as well; nothing was recovered.

When § 87(2)(b) approached the vehicle stop, he observed § 87(2)(b) with his hands up in the air being patted by PO Martins [BR 06]. § 87(2)(b) observed PO Martins also enter § 87(2)(b)'s front and rear pants pockets. Either PO Martins or § 87(2)(b) removed a wallet from one of the pockets and his identification was produced from it and in PO Martin's possession. Next, PO Martins had § 87(2)(b) stand against § 87(2)(b)'s car which was double parked in the front of the apartment building. § 87(2)(b) observed PO Martins frisk § 87(2)(b) and put his hands into § 87(2)(b)'s pockets to search them; he did not recall if PO Martins removed anything from § 87(2)(b)'s pockets.

PO Martins, who had no recollection of the incident, did not remember if he frisked § 87(2)(b) or § 87(2)(b) [BR 08]. After viewing surveillance footage from Camera 6 and Camera 8, PO Martins confirmed he did frisk § 87(2)(b) and § 87(2)(b) but did not recall his reason for frisking them. PO Martins explained that he only frisks people for one reason, his safety. During his interview, PO Martins stated, "My safety and my partner's safety; that's the only reason I frisk someone." PO Martins clarified that it was someone's behavior which would trigger his fear; PO Martins did not remember if there was any indication if § 87(2)(b) or § 87(2)(b) had any bulges on them to indicate they had a weapon. PO Martins explained that the type of demeanor that would trigger his fear would be if an individual were cursing at him, screaming at him, and being belligerent towards him and his partner. When PO Martins feels like his safety or his partner's safety is in jeopardy, he would frisk the individual to make sure he and his partner are safe. PO Martins denied having searched § 87(2)(b) and § 87(2)(b) and based his rationale on the fact that he only searches individuals who are under arrest, and because § 87(2)(b) and § 87(2)(b) were not arrested, they were not searched.

Det. Jackson denied having observed PO Martins frisk or search § 87(2)(b) and § 87(2)(b) and was not informed by PO Martins after the incident, if he had done so [BR 09]. From where he stood on the driver's side of the vehicle, Det. Jackson could see PO Martin, but did not hear his conversation with § 87(2)(b) and § 87(2)(b) who were yelling and cursing at PO Martins.

Surveillance footage from Camera 6 shows § 87(2)(b) standing at the middle of the right side of § 87(2)(b)'s vehicle with his hands up as PO Martins frisks him. Surveillance footage from Camera 8 shows PO Martins frisking § 87(2)(b) from the torso down to his legs, first the



Snagit 1 - Camera 6.mp4



Snagit 1 - Camera 8.mp4

§ 87(2)(g)

- **Allegation N – Abuse of Authority: Det. Essence Jackson interfered with § 87(2)(b) § 87(2)(b) s use of a recording device.**

§ 87(2)(b) alleged he observed from the other side of the vehicle that as Det. Jackson spoke with § 87(2)(b) who was in the driver's seat, Det. Jackson attempted to reach inside the window to prevent § 87(2)(b) from recording the incident on his cellphone [BR 01].

§ 87(2)(b) observed § 87(2)(b) with his phone out, presumably attempting to place a call to his brother, who is a § 87(2)(b) [BR 06]. § 87(2)(b) did not think § 87(2)(b) was recording the officers with his phone. § 87(2)(b) did observe Det. Jackson reach into the driver's side window to grab § 87(2)(b)'s phone, but § 87(2)(b) refused to give his phone to the officer. § 87(2)(b) estimated § 87(2)(b) tugged back and forth with Det. Jackson for five to six seconds, and was ultimately able to keep his phone.

The investigation was unable to obtain a statement from § 87(2)(b) regarding the allegation. PO Martins did not recall the incident [BR 08].

Det. Jackson did not recall if § 87(2)(b) had his cellphone out during the incident and did not see him trying to record a video on his phone [BR 09]. Det. Jackson denied having attempted to stop § 87(2)(b) from recording.

§ 87(2)(g)

- **Allegation O: Abuse of Authority: Det. Essence Jackson searched the vehicle in which § 87(2)(b) was an occupant.**

As previously stated above, § 87(2)(b) and § 87(2)(b) alleged Det. Jackson reached into § 87(2)(b)'s driver's side window to grab § 87(2)(b)'s cellphone from his hands [BR 01; BR 06].

The investigation was unable to obtain a statement from § 87(2)(b) regarding the allegation. PO Martins did not recall the incident [BR 08].

The placements of the surveillance cameras do not address any details of this allegation. At 8 seconds into the footage from § 87(2)(b)'s cellphone, Det. Jackson is already bent over and leaning into the vehicle through the driver's side door [BR 07]. Det. Jackson is observed holding papers in one hand and his flashlight in



his other hand, shining it on the interior of the vehicle [see snapshot in BR 14]. Det. Jackson does not converse with § 87(2)(b) who is seated in the front passenger seat. At 10 seconds, Det. Jackson stands up. At 22 seconds, § 87(2)(b) turns to her right and waves at the camera. Meanwhile, Det. Jackson is standing at the left rear door with his flashlight through the window to look at the interior of the vehicle.

PO Jackson stated that while speaking with § 87(2)(b) through the driver's window, he asked § 87(2)(b) for his identification and held onto it [BR 09]. Det. Jackson denied having searched § 87(2)(b)'s vehicle, and did not recall having entered it for any reason. Det. Jackson denied having observed anything illegal inside § 87(2)(b)'s vehicle, and based this on the fact that § 87(2)(b) was not arrested.

Det. Jackson was shown the cell phone footage recorded by § 87(2)(b) in its entirety. At 15 seconds, Det. Jackson explained that when he was observed inside the vehicle from the driver's side door, he had been leaning in to speak with § 87(2)(b) [BR 09]. Det. Jackson did not recall the context of their conversation and denied having reached into the vehicle for any object or to search the vehicle. At 22 seconds, Det. Jackson explained he was shining his flashlight into the rear driver's side of the vehicle as he conducted a plain view search. At 30 seconds, Det. Jackson explained he did not observe anything inside the vehicle after he completed his exterior plain view search.

According to People v. Hernandez 238 A.D.2d 131 (App. Div. 1st Dept 1997), the action of an officer placing his hand "inside the vehicle," a breaching of the plane of a car, constitutes a search [BR 23]. An officer may conduct a limited search of a vehicle when there is a substantial likelihood of a weapon being present in the vehicle, thereby posing an articulable and specific threat to the officer's safety, or if there is probable cause to believe that the vehicle contains contraband or evidence of a crime. People v. Newman, 96 A.D.2d (1st Dept. 2012) [BR 24].

§ 87(2)(g)
[REDACTED]

• **Allegation P – Abuse of Authority: Det. Essence Jackson frisked § 87(2)(b)**
§ 87(2)(b) observed § 87(2)(b) being frisked by Det. Jackson at the rear of § 87(2)(b)'s vehicle [BR 01]. § 87(2)(b) also observed § 87(2)(b) being frisked, but could not recall which officer conducted the frisk [BR 06].

PO Martins did not recall anything about the incident [BR 08]. Det. Jackson asked § 87(2)(b) to step out of the vehicle so he could speak with him as Det. Jackson was having trouble hearing § 87(2)(b) over § 87(2)(b) and § 87(2)(b)'s yelling [BR 09]. Det. Jackson believed he led § 87(2)(b) immediately across the street to converse with him. Det. Jackson did not remember § 87(2)(b) being escorted to the back of his vehicle and being frisked or searched by him. Det. Jackson speculated that any reason to frisk would have been for weapons. However, Det. Jackson did not remember if there were any indications that § 87(2)(b) had weapons on him and did not recall observing any bulges in § 87(2)(b)'s pockets.

Surveillance footage from Camera 6 between 7:09:10 p.m. and 7:09:37



p.m. shows Det. Jackson leading § 87(2)(b) from the driver's seat to stand facing the rear of his vehicle [BR 04]. Next, Det. Jackson is bending over to frisk § 87(2)(b) leaning to the left and right of § 87(2)(b) as he pats around his waistband and pants [BR 04].

Officers who conduct routine traffic stops may exercise their discretion to require occupants to exit a vehicle once a lawful traffic stop has been effected, out of a concern for safety and without particularized suspicion. People v. Isaac, 107 A.D.3d 1055 (2013) [BR 22]. Furthermore, officers are constitutionally permitted to perform a “pat down” of a driver and any passengers upon reasonable suspicion that they may be armed and dangerous. Arizona v. Johnson, 555 U.S. 323 (2009) [BR 21]. Such suspicions should be supported by observations or factors, such as a noticeable bulge, or presence in an area with frequent shootings, that contribute to such a particularized suspicion. Isaac.

§ 87(2)(g)

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

7

4

b

[REDACTED]

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

Squad: 3

Investigator: _____ Rebecca Ho 01/22/16
Signature Print Date

Supervisor: _____ Dane Buchanan _____
Title/Signature Print Date

Reviewer: _____ _____
Title/Signature Print Date

Reviewer: _____ _____
Title/Signature Print Date